

Appl. No. 10/698,910
Response Dated February 3, 2006
Reply to Final Office Action of November 3, 2005

REMARKS

Claims 1-12 and 14-33 are pending in the present application. Claims 1, 10, 14, 20, and 26 have been amended. No new matter has been added. Favorable reconsideration and allowance of the pending claims are respectfully requested.

35 U.S.C. § 103(a) Rejections

In the Final Office Action, claims 1-6, 14-16, 18, 20, 22, 23, and 26-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 5,446,447 to Carney ("Carney"). Applicant respectfully traverses the rejection.

To form a *prima facie* case of obviousness under 35 U.S.C. § 103(a) the cited reference or references, when combined, must teach or suggest every element of the claim. *See e.g.* MPEP § 2143.03. Moreover, all of the teachings of the cited references must be considered, even disclosures that teach away from the claimed invention. *See* MPEP § 2141.02. Furthermore, the proposed combination cannot render the cited references unsatisfactory for their intended purpose or change the principle of operation of a reference. *See* MPEP § 2143.01, for example. Thus, it is improper to combine references where the references teach away from their combination. *See* MPEP § 2145, for example. Additionally, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *Id.*

While Applicant disagrees with and traverses the grounds of rejection set forth in the Final Office Action, Applicant has amended the independent claims in order to expedite prosecution.

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In particular, independent claims 1, 14, 20, and 26 have been amended to recite "receiving a third signal at a third frequency, said third signal comprising a combination of said first and second signals from a first security tag of said first type and filtering said third signal to remove frequency components of only said first signal." Applicant submits that Carney fails to teach or suggest at least this feature of independent claims 1, 14, 20 and 26.

Referring to FIG. 7, for example, Carney states:

In response to receipt of the RF energy interrogation signal, and after sufficient energy is stored, the control means 104 executes the preamble operation of the RF tag 90 by sequentially rendering diodes 106, 108, and 110 conductive so that the resonant circuit 92 is resonant at each one of three different resonant frequencies one at a time and in ascending order of resonant frequency. Once the preamble portion is executed, the control means 104 then causes the diodes 106, 108, and 110 to be selectively rendered conductive in a predetermined time sequence so that the resonant circuit is resonant at selected ones of the selectable different frequencies in a predetermined time sequence. Col. 7, Ins. 9-26.

Referring to FIG. 15, for example, Carey states:

During the preamble, during the time in which the RF tag is resonant at each of its resonant frequencies, each tunable band pass filter and its associated envelope detector will provide an output to the frequency adjust processor associated with a given one of the resonant frequencies. The frequency adjust processor 224 in turn causes each tunable band pass filter to be tuned to a respective one of the resonant frequencies of the RF tag. After the preamble is completed, the RF tag then, through its control means, is caused to be resonant at selected ones of its different resonant frequencies in a predetermined time sequence. By detecting RF energy absorption, the tunable band pass filters and envelope detectors provide inputs to the decoding means 226 indicating the frequencies at which the RF tag is resonant during each time period T. The decoding

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means 226 then decodes the time sequence of the selected resonant frequencies of the RF tag for recovering the predetermined identification code of the RF tag. The parallel-to-serial converter then causes the predetermined identification code to be outputted from the output 228 for completing the identification code recovery. Col. 9, ln. 60-Col. 10, ln. 14.

Namely, Carney teaches that during the preamble execution, "the resonant circuit 92 is resonant at each one of three different resonant frequencies one at a time and in ascending order of resonant frequency." Carney also teaches that during code execution, "the resonant circuit is resonant at selected ones of the selectable different frequencies in a predetermined time sequence." As such, Carney does not teach a first signal at a first frequency, a second signal at a second frequency, and a third signal at a third frequency, the third signal comprising a combination of the first and second signals.

Carney further teaches that "each tunable band pass filter and its associated envelope detector will provide an output to the frequency adjust processor associated with a given one of the resonant frequencies." As such, the band pass filter associated with resonant frequency f3 in Carney (see FIG. 15) will filter all other resonant frequencies such as resonant frequency f1 and resonant frequency f2.

In view of the above, Carney clearly fails to teach or suggest receiving a third signal at a third frequency, the third signal comprising a combination of first and second signals from a first security tag of a first type, and filtering the third signal to remove frequency components of only the first signal. Furthermore, Carney fails to teach or suggest, either expressly or impliedly, the desirability of making such a modification and indeed teaches away from making such a modification.

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Applicant submits, therefore, that Carney is insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1, 14, 20, and 26 as well as dependent claims 2-6, 15, 16, 18, 22, 23, and 27-30. Applicant submits that claims 1-6, 14-16, 18, 20, 22, 23, and 26-30 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims claims 1-6, 14-16, 18, 20, 22, 23, and 26-30 is requested.

In the Final Office Action, claims 7, 10, 12, 17, 19, 21, 24, 25, and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carney in view of USPN 6,362,738 to Vega (“Vega”). Applicant respectfully traverses the rejection.

Applicant submits that Carney and Vega, taken alone or in combination, fail to teach or suggest each and every element of independent claims 1, 10, 14, 20, and 26, as amended. In particular, Applicant submits that Vega does not remedy the deficiencies of Carney with respect to independent claims

As such, Carney and Vega, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1, 10, 14, 20, and 26, as well as dependent claims 24 and 25. Applicant submits that claims 7, 10, 12, 17, 19, 21, 24, 25, and 31 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims 7, 10, 12, 17, 19, 21, 24, 25, and 31 is requested.

In the Final Office Action, claims 8, 9, 32, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carney in view of Vega and further in view of US Patent Publication 2004/0148226 to Shanahan (“Shanahan”). Applicant respectfully traverses the rejection.

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Applicant submits that Carney, Vega, and Shanahan, taken alone or in combination, fail to teach or suggest each and every element of independent claims 1 and 26, as amended. In particular, Applicant submits that Vega and Shanahan do not remedy the deficiencies of Carney with respect to independent claims 1 and 26. As such, Carney, Vega, and Shanahan, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claims 1 and 26, as well as dependent claims 8, 9, 32, and 33. Applicant submits that claims 8, 9, 32, and 33 are allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claims 8, 9, 32, and 33 is requested.

In the Final Office Action, claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Carney in view of Vega and further in view of USPN 5,030,807 to Landt et al. ("Landt"). Applicant respectfully traverses the rejection.

Applicant submits that Carney, Vega, and Landt, taken alone or in combination, fail to teach or suggest each and every element of independent claims 10, as amended. In particular, Applicant submits that Vega and Landt do not remedy the deficiencies of Carney with respect to independent claim 10. As such, Carney, Vega, and Landt, taken alone or in combination, are insufficient to establish a *prima facie* case of obviousness with respect to independent claim 10, as well as dependent claim 11. Applicant submits that claim 11 is allowable for at least this reason. Accordingly, removal of the § 103(a) rejection of claim 11 is requested.

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Conclusion

For at least the above reasons, Applicant submits that claims 1-12 and 14-33 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-12 and 14-33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

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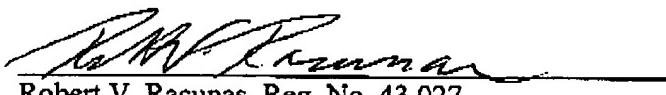
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The Examiner is invited to contact the undersigned at 724-933-5529 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17.

Respectfully submitted,

KACVINSKY LLC



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Under 37 CFR 1.34(a)

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